

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF CHRISTOPHER)	APPEAL NO. 06-A-2543
CHEELEY from the decision of the Board of Equalization of)	FINAL DECISION
Kootenai County for tax year 2006.)	AND ORDER

RESIDENTIAL PROPERTY APPEAL

THIS MATTER came on for hearing January 18, 2007, in Coeur d'Alene, Idaho, before Board Member David E. Kinghorn. Board Member Lyle R. Cobbs also participated in this decision. Owner LeeAnn Cheeley appeared for Appellant. Chief Deputy Assessor Richard Houser, Residential Appraiser Manager Darin Krier and Appraiser Steve Hagler appeared for Respondent Kootenai County. This appeal is taken from a decision of the Kootenai County Board of Equalization (BOE) denying the protest of the valuation for taxing purposes of property described as Parcel No. 030800000290.

The issue on appeal is the market value of a residential parcel and the equity between subject and a neighboring property.

The decision of the Kootenai County Board of Equalization is affirmed.

FINDINGS OF FACT

The assessed land value is \$524,584, and the improvements' valuation is \$342,589, totaling \$867,173. Appellant requests the land value be reduced to \$363,813, and the improvements' value be reduced to \$342,589, totaling \$706,402.

The subject property is an improved river front property with a residence and dock. It is located along the south side of the Spokane River between Post Falls and Coeur d'Alene, Idaho. Subject has 109 front feet along the bank of the river. The lot is described as steep and narrow, with a curvy steep driveway. The residence is located far from the water. There are 99 steps from the residence down to the water. Subject's beach is described as "natural" with rocks, logs and overgrowth that cannot be disturbed due to County ordinance. The view of the water from

the residence is compromised by neighbors' trees.

At the BTA hearing Appellant confirmed the appeal was for subject land only.

A neighbor had a fee appraisal performed on a property adjoining subject. Appellant testified this appraisal led to a reduction in the neighbor's assessed land value. The neighbor property is valued approximately \$170,000 less than subject. The subject lot is described as very similar to the neighbor's lot and Appellant believed the appraisal value would represent subject's value also. Therefore it is argued the reduction of the neighbor's land value generates inequity when compared to the value of subject.

Appellant has not noticed any appreciation of property values in the prior year. Appellant described a lot in the area as very flat, nice, and more buildable than subject. That lot sold for \$350,000 in February, 2006.

Recognition of the differences in the neighbor's driveway and subject's was considered by the County. Although the neighbor's driveway is longer and steeper than subject's, the neighbor's is only used in the summer, whereas subject's is used year round. According to the Appraiser, when driving to the neighbor's resident, it was necessary to use four wheel drive to exit without damaging the property. Appellant believed the seasonal use of the neighbor's residence was a detriment to the property value.

Appellant explained the driveway to subject does not allow access to one garage bay unless the vehicle backs in. The driveway is heated to increase its marketability and year round use.

The last revaluation of subject's area occurred in 2002 for the 2003 tax year. Both land and improvement characteristics were evaluated. The Assessor considered information on view, land contour, beach quality, water depth, wind/sun exposure, landscaping, type of septic and

water system, and water and road access.

The Respondent described the calculations and information used for the earlier revaluation and the ratio studies that followed in subsequent years.

The Assessor used 6 of the 11 recent sales on the Spokane River to adjust the value of subject. The 6 sales were on the south side of the river like subject.

The appraisal submitted by Appellant had an effective date of June 11, 2006. The Assessor contended, it can not be used for establishing the 2006 assessed value of subject. The Assessor assessment date is January 1, 2006. According to the Assessor, any sale or market information prior to that time can be used for valuing property. The post lien date information is considered in the future estimation of value. A 2006 sale can be noted, verified and used for the 2007 valuation of property. The Respondent concluded the fee appraiser believed the OCR¹ (overall characteristics rating) of the appraised property was inferior to the subject property. The ratings are connected to the sales and used in evaluating water front property with similar OCRs. The Appellant addressed the OCR list explaining the view might be a little better for subject as the residence is higher on the hill side than the neighbor. Also subject has some landscaping and the neighbor has none. Other than those two items, Appellant asserts the OCRs for both properties are the same.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in

¹ Property view, land contour, beach quality, water depth, wind/sun exposure, landscaping, type of septic and water system, water and road access.

support of their respective positions, hereby enters the following.

The Assessor has a statutory requirement to value property at market value:

63-314. COUNTY VALUATION PROGRAM TO BE CARRIED ON BY ASSESSOR.

(1) It shall be the duty of the county assessor of each county in the state to conduct and carry out a continuing program of valuation of all taxable properties under his jurisdiction pursuant to such rules as the state tax commission may prescribe, to the end that all parcels of property under the assessor's jurisdiction are assessed at current market value. In order to promote uniform assessment of property in the state of Idaho, taxable property shall be appraised or indexed annually to reflect current market value.

Market value is defined in Idaho Code § 63-201(10) as follows (see also Property Tax Administrative Rule 217, IDAPA 35.01.03.217.01.)

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Appellant's use of the neighbor's fee appraisal was contested as the associated comparable sales were not prior to January 1, 2006 at 12.01 a.m. These sales could be timely considered for the following tax year, 2007.

The Appellant described similarities and differences between subject and the neighbors property. However there was no quantifying of these similarities and differences.

The issue of value impacts between the neighbor's reduced value and subject's is understood. The value of the neighbor's property was not reduced by the Assessor who recognizes the problem. It was the BOE who reduced the neighboring assessment.

Appellants value information was off point regarding the time of valuation relevant to the 2006 tax year. Idaho Code § 63-205 (1). Further the appraisal was not specifically prepared on the subject property and lacked details supporting the land value position. In summary the

appraisal information was not found to be particularly helpful in reviewing subject's land value as of January 1, 2006.

The Board also finds Appellant has not supported the need for a correction to subject's land value based on an inequity with other property. The record is not complete on whether the neighboring property is assessed at full market value or a percentage thereof. Thus, it is not possible to compare relative tax burdens. Under the circumstances, the Board will not order subject's value reduced, even with the clear suggestion of at least one point of inequity. Unfortunately inequalities in taxation do exist. The legal standard is not perfect uniformity. Even with an established and measurable instance of inequity, a single assessment error might not warrant a change to subject, although it would suggest close scrutiny.

The 2006 County assessment of subject was based on recognized appraisal practices and current market information. Appellant has not met the burden of proof in establishing error. The decision of the Kootenai County Board of Equalization will be affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Kootenai County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

DATED this 27th day of April, 2007.